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July 3, 2000

REC'D TN  
REGULATORY AUTH.  
'00 JUL 7 AM 11 29  
OFFICE OF THE  
EXECUTIVE SECRETARY

TELEPHONE  
(615) 254-8801

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(615) 255-5419

David Waddell, Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Pkwy.  
Nashville, TN 37243-0505

Re: Petition of Lynwood Utility Corporation to Change and Increase Rates and Charges  
Docket No. 99-00507

Dear Mr. Waddell:

I have enclosed for filing the original and fourteen copies of the Response to the Reply To Lynwood Utility Corporation's Response to Petition for Reconsideration filed by Jacob C. (Chris) Martin. in this case. Please marked filed the extra copy enclosed and return it to me. Thank you for your assistance in this matter.

This matter is scheduled to be heard at the Authority Conference scheduled for Tuesday, July 11, 2000. Before receiving notice that this matter was set to be heard on this date, I was scheduled to be in Jackson, Tennessee for depositions in another case, and I will not be able to attend. As explained in the Response, Lynwood believes that Mr. Martin's Petition for Reconsideration has already been denied by operation of law. If the Authority desires a representative from Lynwood to be present when action on the Petition for Reconsideration is taken, then such action will have to be postponed to another meeting. Lynwood is not opposed to the Authority going ahead and acting on the Petition for Reconsideration at its July 11, 2000 Authority Conference since its position on the Petition have been clearly set forth in writing. If, however, a representative of Lynwood must be present, this matter should be continued to a later meeting. Thank you for your consideration in this matter.

Sincerely yours,

*Donald L. Scholes*

DONALD L. SCHOLES

Enclosures

c: Richard Collier  
Davis Lamb

BKSJ File No.: 99-215

POSTED  
7-7-00

BEFORE THE TENNESSEE REGULATORY AUTHORITY

Nashville, Tennessee

In Re: PETITION OF LYNWOOD UTILITY )  
CORPORATION TO CHANGE AND ) DOCKET NO. 99-00507  
INCREASE RATES AND CHARGES )

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RESPONSE TO REPLY OF LYNWOOD UTILITY CORPORATION'S RESPONSE  
TO PETITION FOR RECONSIDERATION

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Comes now Lynwood Utility Corporation and submits this Response to the Reply To Lynwood Utility Corporation's Response to Petition for Reconsideration filed by Jacob C. (Chris) Martin.

**1. The Petition for Reconsideration is not timely filed.**

In his Reply Mr. Martin contends that his Petition for Reconsideration was timely filed because he sent an e-mail to David Waddell, the Authority's Executive Secretary, on May 24, 2000 which was 14 days after the Order Approving Rate Increase was entered. Mr. Waddell e-mailed Mr. Martin back and advised him that he would have to file a written request for reconsideration and that he would accept Mr. Martin's e-mail as a request for reconsideration for the tolling of the filing deadline.

Mr. Martin's e-mail still does not constitute the timely filing of a petition for reconsideration. Under T.C.A. § 4-5-317, a party must file a petition for reconsideration within 10 days of the order. Putting aside that Mr. Martin is not a party to this proceeding, his e-mail was not received until 14 days after the Order. Therefore, his Petition for Reconsideration was not timely filed. Although the Authority's Order indicated a petition for reconsideration could be filed within 15 days of the date

of the Order, this time period was incorrect. The deadline for filing a petition for reconsideration is set forth by statute, and the deadline set by statute is 10 days. The Authority does not have the discretion to increase the statutory time limit.

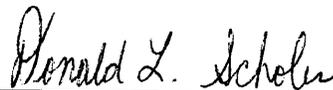
In addition, Mr. Waddell had no authority to “accept” the e-mail as establishing the filing date for a petition for reconsideration at some uncertain date thereafter. Nothing in T.C.A. § 4-5-317 permits an administrative agency to accept an e-mail filing as a means of tolling the filing deadline. This change in the manner of establishing the date of the filing a petition for reconsideration can only be made by the legislature not the Authority.

**2. The Petition for Reconsideration has already been deemed denied by operation of law.**

Under T.C.A. § 4-5-317(c), the Authority must act on a petition for reconsideration with 20 days of its receipt by either granting or denying the petition. If no action is taken within 20 days of the filing, then “the petition shall be deemed to have been denied.” Whether Mr. Martin’s Petition for Reconsideration is considered filed on May 24, 2000 or May 31, 2000, more than 20 days have passed since the Petition for Reconsideration was filed. Therefore, the Petition for Reconsideration is already deemed denied by operation of law. The Authority now has no power to either grant or deny the Petition because it is already deemed denied.

For these reasons the Petition for Reconsideration filed by Mr. Martin should be dismissed.

Respectfully submitted,



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Nashville, TN 37201-1631  
(615) 254-8801  
*Attorney for Lynwood Utility Corporation*

**Certificate of Service**

I hereby certify that a true and exact copy of the foregoing Response has been served by United States Mail, postage prepaid upon the following on this the 3rd day of July, 2000:

Jacob C. Martin  
306 Cypress Court  
Franklin, TN 37069

Donald L. Scholer